

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES CLARE,

Defendant.

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No. 3:19-CR-12-PLR-HBG

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation as may be appropriate. This case is before the Court on Defendant James Clare's Motion to Continue [Doc. 13], filed on April 4, 2019, and asking to continue the April 30, 2019 plea deadline and the May 14, 2019 trial date in this case. Defendant Hilliard requests a continuance to give his attorney additional time to resolve pretrial matters and to prepare the case for trial or other resolution. Defendant contends that a trial continuance would further the ends of justice by providing defense counsel with the reasonable time necessary to prepare the case for trial effectively. The motion states that counsel has explained the right to a speedy trial to Defendant Clare, who understands that all time between the filing of the motion and the new trial date will be fully excludable. The motion relates that the Government does not object to the requested continuance. The parties have conferred with Chambers and agreed on a new trial date of July 30, 2019.

The Court finds Defendant Clare's motion to continue the trial and other deadlines to be unopposed by the Government and to be well-taken. The Court also finds that the ends of justice

served by granting a continuance outweigh the interest of the Defendant and the public in a speedy trial. 18 U.S.C. § 3161(h)(7)(A). The Indictment [Doc. 1] charges Defendant Clare with two counts of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1) and one count of possession of methamphetamine in violation of 21 U.S.C. § 844. Defendant Clare first appeared in this case on March 8, 2019, and at that time, the Court appointed [Doc. 7] Assistant Federal Defender Mary Margaret Kincaid and the Federal Defender Services of Eastern Tennessee to represent him. In the motion, Ms. Kincaid relates that, despite the exercise of due diligence, she needs additional time to resolve pretrial matters and to prepare the case for trial. The Court finds that without a continuance, defense counsel would not have the reasonable time necessary to prepare for trial, despite counsel's exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(iv).

The Defendant's unopposed motion [**Doc. 13**] to continue the trial date is **GRANTED**, and the trial is reset to **July 30, 2019**. The Court finds that all the time between the filing of the motion for a continuance on **April 5, 2019**, and the new trial date of **July 30, 2019**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein. *See* 18 U.S.C. § 3161(h)(1)(D) & -(7)(A)-(B). With regard to additional scheduling in this case, the deadline for concluding plea negotiations and providing reciprocal discovery is extended to **July 15, 2019**. The parties are to appear before the undersigned for a final pretrial conference on **July 15, 2019, at 11:00 a.m.** The Court instructs the parties that all motions *in limine* must be filed no later than **July 15, 2019**. Special requests for jury instructions shall be submitted to the Chief District Judge on or before **July 19, 2019**, and shall be supported by citations to authority pursuant to Local Rule 7.4.

Accordingly, it is **ORDERED** as follows:

- (1) The Defendant's Motion to Continue [**Doc. 13**] is **GRANTED**;

(2) The trial of this matter is reset to commence on **July 30, 2019, at 9:00 a.m.**, before the Honorable Pamela L. Reeves, Chief United States District Judge;

(3) All time between the filing of the motion on **April 5, 2019**, and the new trial date of **July 30, 2019**, is fully excludable time under the Speedy Trial Act for the reasons set forth herein;


(4) The deadline for concluding plea negotiations, providing reciprocal discovery, and filing motions *in limine* is extended to **July 15, 2019**;

(5) The undersigned will hold a final pretrial conference in this case on **July 15, 2019, at 11:00 a.m.**; and

(6) Special requests for jury instructions with appropriate citations shall be submitted to the District Judge by **July 19, 2019**.

IT IS SO ORDERED.

ENTER:

A handwritten signature in black ink, appearing to read "Bruce G. Gorton", written over a horizontal line.

United States Magistrate Judge